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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,276	10/25/2005	Harry Kiemele	2004P10212WOUS	3051

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BELL, BOYD & LLOYD, LLP  
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CHICAGO, IL 60690

EXAMINER
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EVANISKO, LESLIE J

ART UNIT	PAPER NUMBER
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2854

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10/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,276	<b>Applicant(s)</b> KIEMELE ET AL.	
	<b>Examiner</b> Leslie J. Evanisko	<b>Art Unit</b> 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-7,9 and 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/23/06 &amp; 05/19/08</u> .                                 | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Election/Restrictions**

1. Applicant's election of Group II, claims 1, 3, 8, and 10, in the reply filed on July 28, 2008 is acknowledged.
2. Claims 2, 4-7, 9, and 11-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 28, 2008.

### **Information Disclosure Statement**

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### **Drawings**

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- the “outlet opening 18” described on page 5, line 15 is not shown in the Figures.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **Claim Objections**

5. Claims 1, 3, and 10 are objected to because of the following informalities:

With respect to claim 1, in line 9, it is suggested that the term “it” be deleted and replaced with the actual structure to which it is intended to be referring since the term “it” can sometimes be ambiguous. Note a similar problem occurs in claim 3, line 3.

Additionally, with respect to claim 1, line 13, it is suggested that the term “an” be deleted and replaced with --the-- since the output transport direction was previously recited in line 5.

With respect to claim 10, the term “the printing medium” in lines 2-3 has no proper antecedent basis since only “printing material” was previously recited.

Consistent terminology should be used throughout the claims. Therefore, to correct this

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informality, it is suggested that the term “medium” be deleted and replaced with -- material--.

Appropriate correction and/or clarification is required.

### **Claim Rejections - 35 USC § 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakai et al. (JP 11-320989 A).

With respect to claim 1, Sakai et al. teach a printer comprising a supply of printing medium 1; a medium transport device (i.e., the drive for platen roller 3) arranged such that the printing medium can be conveyed in an output transport direction; a control unit to control the medium transport device; and where the control unit is arranged such that the control unit activates the medium transport device in such a way that the medium transport device carries out a rest state (i.e., standby time) transport at periodic intervals, within which, even without the presence of a print job, the medium transport device transports the printing medium in and/or counter to the output transport direction. Particular attention is invited to Figures 1-4, the English language abstract, and the attached partial English language translation of Sakai et al.

With respect to claim 3, Sakai et al. teach the control unit is arranged such that it activates the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backfed to resting position) and is then transported back into the initial position in the output transport direction. See for example, the description of the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start position at the time of printing of the next time at the time of returning from a waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible.

With respect to claim 8, Sakai et al. teach a method of controlling a printer comprising the steps of transporting printing material 1 with a medium transport device, even without a print job, in and/or counter to an output transport direction at periodic intervals during rest state transport. See the previous comments with respect to claim 1. Although the printer of Sakai et al. does not specifically state that it may be used for printing out a report for a tachograph in a commercial vehicle, this language in the preamble is merely a functional recitation of an intended use and since the body of the claim fails to further limit the printer structure to that particular environment, it is the Examiner's position that the printer of Sakai et al. is capable of being used to print out a report for a tachograph as recited and thereby meets the claim language as recited. Particular attention is invited to MPEP 2111.02.

With respect to claim 10, Sakai et al. teach the method includes during the rest state transport, the printing material is initially conveyed from an initial position counter to the output transport direction and is then transported back into the initial position in the output transport direction in paragraph [0014].

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wiklof et al. (US 6,585,437 B1), Duckett et al. (US 2006/0222430 A1) and Boreali et al. (US 6,210,515 B1) each teach a printer including a medium transport device and control unit having obvious similarities to the claimed subject matter.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Leslie J. Evanisko/*

Leslie J. Evanisko  
Primary Examiner  
Art Unit 2854

lje  
September 28, 2008